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6 Attorneys for Plaintiffs SAN LUIS & DELTA-
7 MENDOTA WATER AUTHORITY and
WESTLANDS WATER DISTRICT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SAN LUIS & DELTA-MENDOTA
WATER AUTHORITY and
WESTLANDS WATER DISTRICT.

Plaintiffs.

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15 U.S. DEPARTMENT OF THE
16 INTERIOR; GALE A. NORTON, as
17 Secretary of the U.S. Department of the
18 Interior; U.S. FISH AND WILDLIFE
19 SERVICE; STEVE WILLIAMS, as
20 Director, Fish and Wildlife Service, U.S.
21 Department of the Interior; STEVE
THOMPSON, as Operations Manager,
California/Nevada Operations Office,
Fish and Wildlife Service, Pacific Region,
U.S. Department of the Interior; ANNE
BADGLEY, as Regional Director, Fish
and Wildlife Service, Pacific Region,
U.S. Department of the Interior,

22 Defendants,

23 NATIONAL RESOURCES DEFENSE
24 COUNCIL, et al.,

Intervenor-Defendants.

CASE NO. CIV F-02-6461 OWW DLB

**JOINT STIPULATION SETTLING
CLAIMS FOR ATTORNEYS' FEES AND
COSTS RELATED TO FIRST CLAIM AND
ORDER**

Plaintiffs San Luis & Delta-Mendota Water Authority and Westlands Water District (collectively, “Plaintiffs”) and Federal Defendants United States Department of the

1 Interior; Gale A. Norton, Secretary of the Interior; United States Fish and Wildlife Service (the
2 “Service” or “FWS”); Steve Williams, Director, FWS; Steve Thompson, Operations Manager,
3 California/Nevada Operations Office, FWS; and Anne Badgley, Regional Director, FWS
4 (collectively, “Federal Defendants”), by and through their undersigned counsel, say as follows:

5 WHEREAS, on November 22, 2002, Plaintiffs filed a complaint initiating the
6 present action;

7 WHEREAS, the First Claim in Plaintiffs’ complaint alleged that the Service had
8 failed to conduct a five-year review of the listing status of the delta smelt, a fish, as required by
9 Section 4(c)(2) of the Endangered Species Act (“ESA”);

10 WHEREAS, Plaintiffs’ First Claim was resolved on June 19, 2003 when the Court
11 entered a stipulated settlement agreement (the “Agreement”) submitted by the parties;

12 WHEREAS, under § 7 of that Agreement, Federal Defendants agreed to pay the
13 “reasonable attorneys’ fees and costs” attributable to Plaintiffs’ First Claim for relief;

14 WHEREAS, Plaintiffs have now presented Federal Defendants with a claim for
15 attorneys’ fees and costs attributable to their First Claim for relief in this matter;

16 WHEREAS, the parties agree that it is in the interest of the parties and judicial
17 economy to settle this claim for attorneys’ fees and costs without protracted litigation; and,

18 WHEREAS, the parties enter this Stipulation without any admission of fact or law,
19 or waiver of any claims or defenses, factual or legal.

20 NOW, THEREFORE, Plaintiffs and Federal Defendants hereby Stipulate and
21 Agree as follows:

22 1. Federal Defendants agree to settle Plaintiffs’ claim for the costs and
23 attorneys’ fees attributable to Plaintiffs’ First Claim for relief in this matter for a total of \$22,000.
24 Payment will be made by wire transfer pursuant to instructions to be provided by Plaintiffs.

25 2. Federal Defendants agree to submit all necessary paperwork to the
26 Department of the Treasury’s Judgment Fund Office pursuant to 16 U.S.C. § 1540(g)(4) within
27 ten (10) business days of receipt of the signed court order approving this stipulation.

28 3. Plaintiffs agree to accept payment of \$22,000 in full satisfaction of any and

1 all claims for attorneys' fees and costs of litigation attributable to Plaintiffs' First Claim for relief
2 in this matter, including any and all attorneys' fees and costs incurred compiling, presenting, and
3 negotiating their claim for attorneys' fees and costs.

4. Plaintiffs agree that receipt of this payment from Federal Defendants shall
5 operate as a release of Plaintiffs' claims for all attorneys' fees and costs attributable to Plaintiffs'
6 First Claim for relief in this matter, and also any and all attorneys' fees and costs incurred
7 compiling, presenting, and negotiating their claim for attorneys' fees and costs. Plaintiffs reserve
8 their claims for attorneys' fees and costs that are attributable to the Second, Third, Fourth and
9 Fifth Claims for relief in this matter.

10. By this Agreement, Federal Defendants do not waive any right to contest
11 any further fees or costs claimed by Plaintiffs or Plaintiffs' counsel, including the hourly rate, in
12 the present litigation or any future litigation. Further, this stipulation has no precedential value
13 and shall not be used as evidence in any other attorneys' fees litigation.

14. Respectfully submitted,

15. Dated: June 22, 2005

KELLY A. JOHNSON, Acting Assistant Attorney General
United States Department of Justice
Environment and Natural Resources Division
JEAN E. WILLIAMS, Chief
LISA L. RUSSELL, Assistant Chief

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Attorneys for Federal Defendants

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Dated: June 22, 2005 KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
A Professional Corporation

By _____

Daniel J. O'Hanlon
Attorneys for Plaintiffs SAN LUIS & DELTA-
MENDOTA WATER AUTHORITY and
WESTLANDS WATER DISTRICT

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2 PURSUANT TO THE FOREGOING STIPULATION, IT IS SO ORDERED.

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4 Dated: June 27, 2005

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6 /s/ OLIVER W. WANGER

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8 HON. OLIVER W. WANGER
9 UNITED STATES DISTRICT JUDGE

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